



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Homer Garrison, Jr., Director  
Department of Public Safety  
Camp Mabry  
Austin, Texas

Attention: Mr. J. B. Draper

Dear Sir:

Opinion No. 0-4031

Re: Issuance of driver's license to  
a minor under 16 years of age.

We have received your letter of September 23, 1941,  
which we quote in part as follows:

"We shall greatly appreciate it if you will  
please give us your opinion on the following ques-  
tion:

"When a county judge gives authorization for  
issuance of license to a minor under 16 years of  
age and over 14 years of age, and does not show  
the necessity, but the license will be used to  
drive an automobile for pleasure, etc., do we have  
the authority to refuse issuance of license?"

Subsection 1, Section 4, House Bill No. 20, Acts  
Forty-seventh Legislature, Regular Session, is quoted as follows:

"The Department shall not issue any license  
hereunder:

"1. To any person, as an operator, who, is  
under the age of sixteen (16) years, except that  
the county judge of the county wherein such person  
resides may, after investigation, authorize the  
Department, in writing, to issue a license to any  
such person, when, in his opinion, the person so  
applying is qualified and conditions exist which  
make it necessary for such person to be licensed  
as an operator; provided, however, that in no event  
shall an operator's license of any class be issued  
to any person less than fourteen (14) years of age;"  
(Emphasis supplied)

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Thus, we see that under above quoted provisions the county judge may after investigation authorize the Department of Public Safety to issue a license to a person under 16 but over 14 years of age "when, in his (the county judge's) opinion, the person applying is qualified and conditions exist which make it necessary for such person to be licensed as an operator." (Parenthetical insertion ours) The determination of the existence of conditions making necessary the issuance of the license is a matter solely for the county judge. A written authorization from the county judge is required, but the statute does not require that the authorization show the necessity. After a written authorization is received by the Department of Public Safety, it then becomes the duty of that department to issue a license to the applicant.

The determination by the county judge, after investigation, that there is a necessity requiring the issuance of a license is in the nature of a court order which, in our opinion, is binding upon the Department of Public Safety. See Opinion No. 0-1079.

You are respectfully advised that necessity does not have to be shown by the county judge in his written authorization to the Department of Public Safety to issue an operator's license to a person under 16 but not less than 14 years of age, and the Department of Public Safety may not refuse to issue a license because of the fact that such necessity is not shown.

However, we do not believe that it was the legislative intent to place persons under 16 but not less than 14 years of age, and to whom the county judge authorized the Department of Public Safety to issue a license, in a more desirable class than that occupied by other applicants; but on the other hand we feel that it was intended that such persons be placed in the same category as any other applicant. Therefore, the Department of Public Safety may refuse to issue a license to such person if he comes within any of the provisions which disqualify him. See Section 4 of House Bill No. 20.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*Glenn R. Lewis*

Glenn R. Lewis  
Assistant

By

*George W. Sparks*  
George W. Sparks

APPROVED OCT 2 1941

FIRST ASSISTANT  
ATTORNEY GENERAL

APPROVED  
OPINION  
COMMITTEE  
*BlwB*  
CHAIRMAN